

TOWN OF ERIE  
BOARD OF TRUSTEES REGULAR MEETING 1  
Tuesday, May 26, 2015  
6:30 p.m.  
Board Room, Erie Town Hall, 645 Holbrook, Erie, CO 80516

I. CALL MEETING TO ORDER

Mayor Harris called the May 26, 2015 Regular Meeting of the Board of Trustees to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

Roll Call:	Trustee Carroll	Present
	Trustee Schutt	Present
	Mayor Pro Tem Gruber	Present
	Trustee Moore	Present
	Trustee Charles	Present
	Trustee Woog	Present
	Mayor Harris	Present

III. APPROVAL OF THE AGENDA

Action: Trustee Schutt moved to approve the May 26, 2015 Town of Erie Board of Trustees Meeting Agenda; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

IV. CONSENT AGENDA

- a. Approval of the May 12, 2015 Meeting Minutes
- b. Approval of the May 14, 2015 Special Meeting Minutes
- c. Resolution 15-68; A Resolution Accepting a Quit Claim Deed for 119<sup>th</sup>; Jasper and Jay Road
- e. Resolution 15-73 A Resolution By The Board Of Trustees Of The Town Of Erie, Colorado Accepting Dedications As Shown In The Erie Commons Filing No. 3, 2nd Amendment Final Plat; Adopting Certain Findings Of Fact And Conclusions Favorable To Acceptance Of The Dedications; And, Setting Forth Details In Relation Thereto.
- f. Ordinance 17-2015; An Ordinance of the Town of Erie Approving a Sanitary Sewer Easement Vacate; Colliers Hill Filing 2E (FIRST READING)
- g. Ordinance 18-2015; An Ordinance of the Town of Erie Approving the Vacate of a Portion of Colliers Parkway (FIRST READING)

**CONSENT AGENDA** (continued)

**Action:** Trustee Moore noted for the record that she had read the minutes from the May 22, 2015 regular meeting and was prepared to vote on the Consent Agenda. Trustee Charles moved to approve the May 26, 2015 Consent Agenda; the motion was seconded by Trustee Schutt. The motion carried with the following Roll Call vote:

Trustee Schutt	Yes
Trustee Woog	Yes
Trustee Carroll	Yes
Trustee Moore	Yes
Trustee Charles	Yes
Mayor Pro Tem Gruber	Yes
Mayor Harris	Yes

**V. RESOLUTIONS**

- a. Resolution 15-49; A Resolution of the Town of Erie Approving the Purchase of Dome Structure for the Leon A. Wurl Service Center
- b. Resolution 15-64: A Resolution Awarding A Construction Contract To Metro Pavers, Inc., For The Asphalt Portion of the Leon A Wurl Service Center Dome Structure

The Public Facilities Capital Improvement Budget includes funds for a various upgrades to the service yard at the Leon A Wurl Service Center (Center). One improvement is to purchase and install an additional dome storage structure for ice slice material. Currently our ice slice material is stored in a 40-foot round structure constructed in 2010. This structure was purchased from Sprung Instant Structures, Inc. (Sprung Structures) and erected in-house with a Sprung Structures technical consultant on-site. This current structure is adequate for quality storage of material, but is too small for the amount of material needed. It holds approximately 150 tons. Staff will repurpose this structure to hold the salt/sand mixture. The salt/sand mixture is used for traction control and when temperatures are too low for ice slice to work effectively and when ice slice material is not available. The salt/sand mixture is currently stored in a concrete bin with a large tarp over it. Staff contacted Sprung Structures for a quote to build a 50-foot by 95-foot rectangle structure. This additional structure will allow for more capacity for material. This structure will hold approximately 750 tons. Our worst storm in the 2014/2015 winter used 84.5 tons during the event. The additional capacity also allows us to purchase in larger quantities which in turn reduces the overall cost by approximately 3%. The Town received a quote for purchase of the storage dome from Sprung Structures. Sprung Structures was awarded the General Services Administration Federal Supply Service Contract through 2018, which is comparable to State bid. Sprung Structures have been in business since 1887 (manufacturing chuck wagon covers and teepees) and have multiple structures in Colorado including the City of Thornton, City of Keystone, City and County of Broomfield, Lockheed Martin, Fort Carson, Colorado Department of Transportation, Town of Vail, Town of Breckenridge, City of Colorado Springs, and Jefferson County. As of 2013, the Nevada Department of Transportation has 15 structures. The structures are fitting for both Nevada and Colorado weather by utilizing durable tension membrane panels placed under high tension within an aluminum substructure. The major benefits include: ability to relocate structure; life expectancy of the "skin" over the structure is approximately 20 years; additional capacity allows for bulk rate purchase cost and more storage; less corrosion with aluminum versus steel; and having two units from the same manufacturer allows for transferability of parts. Sprung Structures has a patent on their stressed membrane structure. The solid aluminum structure is a better investment than the hollowed steel structure other companies use. With contact between the metal and the material, the aluminum has less corrosion over time than steel. The location of the new dome requires installation of an approximate 100 feet by 52 feet asphalt base,

**RESOLUTIONS (continued)**

approximately 205 linear feet of asphalt curbing to prevent water from flowing in to the new dome, and a ramp for loading. The base will have recycled asphalt as the subgrade and hot mix asphalt over it. Staff requested a bid from Metro Pavers, Inc., who has the asphalt contract for the Town this year. Staff is recommending awarding the purchase contract to Sprung Structures. This company has successfully completed a previous similar project for the Town. Once awarded, the structure will take approximately 3 weeks from the purchase order approval. Town Staff will erect the structure with the guidance of a Sprung Structures technical consultant available on-site (included in cost). Staff is also recommending awarding the asphalt construction contract to Metro Pavers, Inc.

**Action:** Mayor Pro Tem Gruber moved to approve Resolution 15-49; the motion was seconded by Trustee Schutt. The motion carried with the following roll call vote:

Mayor Pro Tem Gruber	Yes
Trustee Charles	Yes
Trustee Moore	Yes
Trustee Carroll	Yes
Trustee Woog	Yes
Trustee Schutt	Yes
Mayor Harris	Yes

**Action:** Trustee Charles moved to approve Resolution 15-64; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with the following roll call vote:

Trustee Schutt	Yes
Trustee Woog	Yes
Trustee Carroll	Yes
Trustee Moore	Yes
Trustee Charles	Yes
Mayor Pro Tem Gruber	Yes
Mayor Harris	Yes

- c. **Resolution 15-58; A Resolution of the Town of Erie Awarding a Construction Contract for the Leon A. Wurl Service Center Water Line Expansion Project.**

The Public Facilities Capital Improvement Budget includes funds for a various upgrades to the service yard at the Leon A Wurl Service Center. One of the improvements is to extend the waterline, located on the west side of the facility, approximately 250 linear feet to the inside of the yard and install a hydrant. The hydrant will be metered and used to wash chunks of ice, road debris, and sander units outside the dump trucks after events like snow removal. Using the new hydrant with a 2.5" hose compared to current 3/4" hose allows for greater pressure and volume of water to clean and will reduce the cleaning time in half. An Invitation to Bid was sent out via the Town's website on March 20, 2015. A pre-bid meeting was held on March 27, 2015. Bids were received and opened on April 10, 2015; MSI Enterprises, Inc. was the low bidder at \$24, 610.00. Staff is recommending awarding the construction contract for to MSI Enterprises, Inc. This company has successfully completed other projects for the Town.

**RESOLUTIONS** (continued)

**Action:** Trustee Charles moved to approve Resolution 15-58; the motion was seconded by Trustee Schutt. The motion carried with the following roll call vote:

Mayor Pro Tem Gruber	Yes
Trustee Charles	Yes
Trustee Moore	Yes
Trustee Carroll	Yes
Trustee Woog	Yes
Trustee Schutt	Yes
Mayor Harris	Yes

- e. Resolution 15-70; A Resolution Authorizing the Appropriation of an Amount Not To Exceed \$260,560.00 from the Trail and Natural Areas Fund for Flood Mitigation for the Coal Creek Trail Underpass; and, Setting Forth Details in Relation Thereto

The South Coal Creek Trail Extension was completed in July 2013. Shortly thereafter the Town of Erie experienced flooding in many areas of town. The flooding changed the flow and path of Coal Creek considerably with significant changes in the location of Coal Creek and the airport. At this point the Coal Creek Trail goes under the taxiway and is adjacent to the creek. This area receives water from rain, groundwater drainage, and snow melt resulting in frequent trail closures and regular significant standing water. In 2014 staff contracted with Loris and Associates, Inc. to complete a conceptual alternative analysis and propose some options to remedy the chronic flooding that occurs on the Coal Creek Trail at the underpass of the Erie Municipal Airport east-west taxiway. Three options were proposed: Option 1: Utilize the existing low water crossing concrete box culvert and install, replace or retrofit a flood divider wall between the existing channel and trail upstream and downstream of the underpass this option has two possible configurations of the wall resulting in options 1 A or 1 B; Option 2: Realign and relocate approximately 500 feet of Coal Creek Trail to the west of the existing underpass and install a separate box culvert to act as the trail underpass; Option 3: Realign approximately 1250 feet of Coal Creek Trail approximately 780 feet to the west of the existing trail underpass to the location of South Main Street. On Monday May 11, 2015 OSTAB unanimously passed a motion to move forward with recommendation of Option 1A. This recommendation was approved for \$248,153 anticipated project cost with an additional 5% contingency for total project cost not to exceed \$260,560. (The additional contingency was approved due to time gap from when initial report was completed to date.) It is requested that the Board approve the appropriation of the required funds from the Trails and Natural Areas Fund in order to move forward with this project and complete flood mitigation on the Coal Creek Trail. In an effort to have an open Coal Creek trail every day of the year, staff will also begin reviewing feasibility of option 3. OSTAB believes having an alternate route is critical for users and their safety. Staff findings of Option 3 will be reviewed by OSTAB.

**Action:** Mayor Pro Tem Gruber moved to approve Resolution 15-70; the motion was seconded by Trustee Woog. The motion carried with the following roll call vote:

Trustee Schutt	Yes
Trustee Woog	Yes
Trustee Carroll	Yes
Trustee Moore	Yes
Trustee Charles	Yes
Mayor Pro Tem Gruber	Yes
Mayor Harris	Yes

## RESOLUTIONS (continued)

- f. Resolution 15-67; A Resolution Authorizing Award Of A Construction Contract To Kelly Trucking, Inc. In The Amount Of \$352,475; And Setting Forth Details In Relation Thereto.

This past April, the Town was contacted by Kelly Trucking, Inc. wanting to know if the Town had a need for a significant amount of dirt. Kelly Trucking has approximately 75,000 cubic yards of dirt available from a project in Boulder. Staff indicated that the Town has a need for dirt; however the dirt needs to be placed as engineered fill. Kelly Trucking indicated that they have the abilities to place engineered fill and they provided the Town with a bid to do this work. 75,000 cubic yards of dirt should be sufficient to fill in approximately 5.7 acres of the existing reservoir basin, or just below the bench area; the contractor estimates that it will take 50 working days to complete the project (weather depending) and that there may be a total of 100 loads per 10 hour day. Kelley Trucking Inc. is a Golden Colorado based company that has been in business since 1973. Kelly Trucking provides contractor services throughout the Rocky Mountain Region including general contracting, airports, reservoirs and dams, heavy highway, over lot grading, environmental remediation, aggregate production, hauling and structural excavation and backfill. Their equipment includes a complete fleet of scrapers, dozers, loaders, excavators, backhoes, compactors and trucks. They have worked on projects for CDOT, Eagle County, Anthem in Broomfield, Stapleton Redevelopment, the Orchard Town Center, and Southlands. Staff has reviewed their qualifications and found them to be acceptable. Staff is recommending awarding the construction contract for the earthwork to Kelly Trucking, Inc.

Action: Trustee Moore moved to continue Resolution 15-67 to the June 9, 2015 Regular Meeting of the Town of Erie Board of Trustees. The motion failed due to no second.

Action: Mayor Harris directed staff to schedule a Town of Erie Urban Renewal Authority Meeting for June 9, 2015 and prepare a TOEURA Resolution memorializing that the Urban Renewal Authority assume repayment and state that it is responsible for debt incurred by the purchase of fill dirt from funds used for the purchase from the Town of Erie General Fund.

Action: Mayor Pro Tem Gruber moved to approve Resolution 15-67; the motion was seconded by Trustee Carroll. The motion carried with the following roll call vote:

Mayor Pro Tem Gruber	Yes
Trustee Charles	Yes
Trustee Moore	No
Trustee Carroll	Yes
Trustee Woog	Yes
Trustee Schutt	Yes
Mayor Harris	Yes

## PUBLIC HEARINGS

- g. Resolution 15-71; A Resolution Approving the Special Review Use Application To Allow The Keeping Of Three Large Animals At 3792 North 119TH Street, Adopting Certain Findings of Fact and Conclusions Favorable to the Special Review Use.

## RESOLUTIONS (continued)

### PUBLIC HEARING

Staff supports the Special Review Use application for the keeping of three (3) large animals at 3792 N01ih 119th Street and recommends the Board of Trustees approve Resolution 15-71, with the following conditions: a. The Special Review Use permit shall only remain valid provided the applicant maintains the pasture acreage requirements of Title 10 of the Municipal Code. b. Applicant must demonstrate to staff, proper fencing and shelter provisions, prior to permit issuance, allowing (3) large animals at the subject property. c. Applicant must demonstrate to staff, and staff must be allowed to examine existing conditions of the chicken coop, and deem acceptable and in compliance with Town of Erie Municipal Code. At the May 6, 2015 meeting, the Planning Commission conducted a Public Hearing and approved Resolution P15-12, by unanimous vote (7-0), recommending approval to allow the keeping of three (3) large animals with the conditions.

**Action:** Prior to opening the Public Hearing Mayor Harris stated "Anyone wishing to address the Board of Trustees on this matter; please raise your right hand. Do you swear or affirm that the evidence and testimony that your about to give is true?" Mayor Harris opened the Public Hearing for Resolution 15-71 at 7:22 p.m.

The Board heard Public Comment from:

Cherry Emerson, 3844 N. 119<sup>th</sup> St. Lafayette, CO.

The Applicant provided testimony to the Board:

Alexis Benz, 3792 North 119<sup>th</sup> Street, Lafayette, CO.

**Action:** Mayor Harris hearing no one else wishing to make comment or give testimony; closed the public hearing for Resolution 15-71 at 7:42 p.m. Trustee Moore moved to approve Resolution 15-71; the motion was seconded by Trustee Schutt. The motion carried with all present voting in favor thereof.

### PUBLIC HEARING

- h. Resolution 15-72; A Resolution Approving the Special Review Use Application for an In-home Child/Day Care Business at 2015 Pinon Drive, Adopting Certain Findings of Fact and Conclusions Favorable to the Special Review Use.

Staff supports the Special Review Use application for an In-home Child/Day Care Business at 2015 Pinon Drive, and recommends the Board of Trustees approve the application by adopting Resolution No. 15-72, with the following conditions: The Special Review Use permit shall only remain valid provided the applicant maintains a State of Colorado Division of Childcare License; and A Town of Erie business license is issued for the use, contingent upon issuance of the Special Review Use permit. The applicant is requesting approval to operate a Child/Day Care business, for a maximum of six children, out of her home in Vista Ridge. Article V, Section A-3(b) of the Vista Ridge

## RESOLUTIONS (continued)

### PUBLIC HEARING

Development Guide requires Special Review Use approval for nursery schools and day/child care businesses in all Residential Planning Areas of Vista Ridge. The applicant will use the driveway and garage to satisfy parking requirements. There are no employees other than the owner (the applicant) of the business.

**Action:** Prior to opening the Public Hearing Mayor Harris stated "Anyone wishing to address the Board of Trustees on this matter; please raise your right hand. Do you swear or affirm that the evidence and testimony that your about to give is true?" Mayor Harris opened the Public Hearing for Resolution 15-72 at 7:43 p.m.

The Applicant provided testimony to the Board:

**Dayna Bly**, 2105 Pinon Drive Erie, CO 80516

**Action:** Mayor Harris hearing no one else wishing to make comment or give testimony; closed the public hearing for Resolution 15-72 at 7:50 p.m. Trustee Schutt moved to approve Resolution 15-72; the motion was seconded by Trustee Carroll. The motion carried with all present voting in favor thereof.

**Action:** Mayor Harris called for a break at 7:50 p.m. and reconvened the meeting at 8:03 p.m.

## **VI. ORDINANCES**

### PUBLIC HEARING CONTINUED FROM THE MAY 12, 2015 REGULAR MEETING OF THE BOARD OF TRUSTEES

- b. Ordinance 13-2015; An Ordinance of the Town of Erie Approving Front Range Landfill 1<sup>st</sup> Amendment to Planned Development Allowing Liquid Solidification. (SECOND READING)
- c. Ordinance 14-2015; An Ordinance of the Town of Erie Approving Front Range Land Fill 1<sup>st</sup> Amendment to CD Allowing Liquid Solidification (SECOND READING)

In March 1996, the Town of Erie annexed and zoned the Front Range Landfill property. The initial zoning of the property by Ordinance 504 zoned the property as PD-Planned Development, which in general allowed the continued operation of a sanitary landfill that was previously approved by and operated in unincorporated Weld County. In December 1996, Ordinance 535 was adopted by the Town which amended the PD zoning to allow additional waste streams. In October 2005, Ordinance's 33-2005 and 34-2005, were adopted by the Town which approved the expansion of the Front Range Landfill for Republic Services of Colorado, the operator of the landfill at that time. In particular, Ordinance 33-2005 amended the PD zoning created by Ordinance 504 and included site specific Development Standards and Conditions of Approval that outlined operational aspects of the landfill. Concurrent with the approval of the amended PD zoning granted by Ordinance 33-2005, the Board of Trustees approved Ordinance 34-2005 which amended the Certificate of Designation to incorporate the same site specific Development Standards

## **ORDINANCES (continued)**

and Conditions of Approval approved in Ordinance 33-2005. As part of the approval of Ordinances 33-2005 and 34-2005, the Colorado Department of Public Health and Environment ("CDPHE") modified the existing Engineering Design and Operations Plan ("EDOP") to incorporate the expanded landfill as well as applicable Development Standards and Conditions of Approval. Both Ordinances 33-2005 and 34-2005 specifically excluded the Front Range Landfill from knowingly accepting any liquid waste for solidification and disposal as is indicated by Condition of Approval No. 21 in both ordinances. In August 2012, the Board of Trustees held a Study Session at which Waste Connections, the operator of the Front Range Landfill since 2009, demonstrated the process of liquid waste bulking. A representative from the CDPHE also attended the Study Session and answered technical and procedural questions pertaining to liquid waste bulking. At the end of this Study Session agenda item, the Board indicated that they would be receptive to Waste Connections moving forward with the liquid waste bulking concept. In May 2014, Waste Connections filed PD Amendment and Site Plan applications with the Town to allow liquid waste bulking at the Front Range Landfill. Note that the Site Plan application, per Title 10, is an administrative staff level approval that will be subject to the approval of the PD Amendment. The proposed liquid waste bulking facility to be located on the Front Range Landfill would allow the operator to accept and process liquid or semi-solid waste to be mixed with bulking agents to "solidify" the liquid or semi-solid waste. A liquid or semi-solid waste becomes solid waste when mixed with bulking agents and said waste passes the Paint Filter Test (EPA SW-846 Method 9095B). When the solidified waste passes this test, the solidified waste would then be deposited within the lined disposal area of the Front Range Landfill, similar to how solid waste is disposed of today. Currently the Front Range Landfill accepts non-hazardous liquid and semi-solid wastes that have been solidified elsewhere and transported to the landfill and disposed of as solid waste. The operation of the liquid waste bulking facility will occur within the same operational hours of the landfill or from 6:00am to 8:00pm with processing of solid waste until 10:00pm Monday through Saturday. These operational hours are established per Condition of Approval No. 3 of Ordinances 33-2005 and 34-2005. Concurrent with the proposed PD Amendment, the applicant has filed a Site Plan application indicating the location and structures required for the liquid waste bulking facility. The proposed facility will consist of multiple concrete basins that will hold liquids that will be piped to mixing basins where bulking agents will be added from adjacent stockpiles to create the solidified waste. Once the liquid and semi-solid wastes are solidified, said solidified waste will be trucked internally on the landfill property to the approved disposal area identified in the EDOP. The proposed liquid waste bulking facility is located outside the footprint of the permitted disposal area so the liquid waste bulking facility will not need to be relocated as disposal areas are opened/closed. As the liquid waste bulking facility is located outside of the landfill disposal area identified in the EDOP, the facility will be required to install liners and a leak detection system as added environmental protections. CDPHE has approved the modifications to the EDOP to allow liquid waste bulking to occur on the Front Range Landfill subject to the Town approvals as is indicated in the referral response letter from CDPHE dated August 1, 2015. The two primary modifications of the PD Amendment proposed that impact the operational aspects of the landfill are as follows.

### **1) Rewording of Condition of Approval No. 23 from Ordinance 33-2005:**

#### *Current Language:*

The facility shall not knowingly accept any liquid waste for solidification or disposal.

#### *Proposed Language:*

The facility shall be allowed to accept liquid waste for solidification and disposal. Notwithstanding anything herein to the contrary, in no event shall the facility be allowed to accept fluids used in hydraulic fracturing of oil and gas wells ("Fracking Fluids"), nor shall the facility accept produced waters from oil and gas wells ("Produced Waters") for solidification or disposal. Produced Waters is defined as water that is present in the oil or gas being removed from the well during production. Produced Waters does not include products of exploration or drilling.



## **ORDINANCES (continued)**

*Staff Comment:*

The rewording of this condition allows liquid waste for solidification to occur although it specifically excludes the acceptance of fracking fluids and produced waters. In addition, Condition of Approval No. 7 remains applicable and states:

The landfill does not, and will not, accept regulated hazardous waste (40 CFR Part 261) and regulated radioactive wastes. The landfill shall not knowingly accept any hazardous waste material or regulated radioactive waste at any time, nor apply for any future permits for such use to the State, Weld County, or the Town of Erie

**2) Addition of Development Standard 36:**

*Current Language:*

Not applicable, new standard added.

*Proposed Language:*

The property owner agrees to take any and all steps necessary to prevent the tracking of mud, trash and debris from the property onto public right-of-ways. If Erie determines that tracking of mud, trash and debris from the property onto public right-of-ways creates a nuisance, owner agrees to abate said nuisance immediately following receipt of notice from Erie. If owner does not abate said nuisance within 24 hours of receipt of such notice from Erie, Erie may abate the nuisance without further notice to owner, at owner's expense, and owner shall reimburse Erie upon receipt of an invoice for the costs expended by Erie, plus 10% for overhead.

*Staff Comment:*

The tracking of mud and other debris from the landfill onto Town roadways (primarily WCR 5) is not permitted. The landfill owner is required to abate any tracking and currently employs a street sweeper to prevent said nuisances. In the event the owner fails to abate the nuisance within 24 hours, the Town, through this additional Development Standard, may elect to abate said nuisance and recover any abatement costs from the owner.

**Certificate of Designation Amendment (Repealing/Amending Ordinance 34-2005)** The proposed amendments to the Conditions of Approval and Development Standards Ordinance 34-2005 are identical to the proposed amendments in Ordinance 33-2005.

**Action:** Prior to continuing the public hearing and taking evidence or testimony the Mayor asked that anyone wishing to address the Board of Trustees on this matter please raise your right hand, and affirm that the evidence and testimony they were about to give was true.

**Additional Comments and information for the Applicant were made available to the Board from:**

Dan Gudgel-Front Range Landfill  
Matthew Crockett, and Mark Adams of Waste Connections  
Caitlin S. Quander, Attorney, Brownstein Hyatt Farber Schreck LLP  
Andrew Todd, Staff Engineer, Colorado Department of Public Health  
Chip Hancock, Air Pollution Control Division  
Mike VanDyke, Environmental Epidemiology Division  
Freddy Arck, Information Specialist, Colorado Department of Public Health

### ORDINANCES (continued)

Action: Following Board discussion, comments and questions, Mayor Harris closed the Public Hearing for Ordinance 13-2015 at 9:07 p.m. Trustee Charles moved to approve Ordinance 13-2015; the motion was seconded by Trustee Schutt. The motion failed with the following vote:

Trustee Schutt	No
Trustee Woog	No
Trustee Carroll	No
Trustee Moore	Recused/was absent from 5-12-2015 Meeting Presentation
Trustee Charles	No
Mayor Pro Tem Gruber	No
Mayor Harris	No

Action: Trustee Schutt moved to approve Ordinance 14-2015; the motion was seconded by Mayor Pro Tem Gruber. The motion failed with all present voting no.

Action: Staff was directed to bring back an Ordinance denying the Application for Front Range Landfill Liquid Waste Bulking Operations Planned Development Amendment to the June 9, 2015 meeting.

Action: Mayor Harris called for a break at 9:25 p.m. and reconvened the meeting at 9:30 p.m.

## **VII. LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES**

### **WISE FARMS** **PUBLIC HEARING**

- a. Ordinance 15-2015: An Ordinance Of The Town Of Erie, Colorado, Rezoning The Wise Farms Property Pursuant To The Petition Of The Owner Thereof, From Rr – Rural Residential To Ag/OS – Agriculture/Open Space; LR - Low Density Residential; And, Rr – Rural Residential; And, Providing For The Effective Date Of This Ordinance; And, Setting Forth Details In Relation Thereto. (FIRST READING)

The purpose of the Public Hearing is to consider Rezoning the Wise Farms property from RR – Rural Residential to AG/OS – Agriculture/Open Space; LR - Low Density Residential; and, RR – Rural Residential. The Planning Commission held a public hearing for the Rezoning request on January 21, 2015. The Planning Commission is recommending denial of the Rezoning application in Resolution P13-26. The Planning Commission determined that the application is not in substantial compliance with the following approval criteria as specified in Title 10, Section 7.5 of the Town of Erie Municipal Code: a. The Rezoning is not consistent with the Town's Comprehensive Master Plan and the purposes of this UDC; b. The Rezoning is likely to result in significant adverse impacts upon other property in the vicinity of the subject property; Future uses on the subject property will not be compatible in scale with uses on other properties in the vicinity of the subject property. The Wise Farms property is located south of Jasper Road and west of 119th Street. The property is separated by the RTD railroad right of way. Staff finds the Rezoning application is in general Compliance with the Land Use designation of RR-Rural Residential on the 2005 Comprehensive Plan, Land Use Plan Map; as illustrated below. The density range of RR, in the Comprehensive Plan, is 0 to 2 dwelling units per acre; however, gross densities will not typically exceed 1 dwelling unit per acre. The applicant proposal is for 166 dwelling units on approximately 169 acres; this equals a gross density of 0.98 dwelling units per acre.

**LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)**

**WISE FARMS**  
**PUBLIC HEARING**

**b. Ordinance 16-2015 An Ordinance Regarding The Wise Farms PUD Zoning Map Overlay Rezoning, Adopting Certain Findings Of Fact And Conclusions Favorable To The Planned Unit Development Overlay Rezoning. Wise Farms Preliminary Plat Resolution (FIRST READING)**

A Public Hearing to consider a request to for a PUD Overlay on the Wise Farms Rezoning Map to modify single family lot sizes, setbacks and architectural standards. Staff recommends the Board of Trustees approve Ordinance 16-2015, an ordinance approving the Wise Farms PUD Zoning Map with the following conditions: a. The approval of the Wise Farms PUD Zoning Map shall not come into effect until the Wise Farms Zoning Map is approved and recorded for the property. The PUD Zoning Map shall not be recorded until after the Wise Farms Zoning Map is recorded. b. The approval of the Wise Farms PUD Zoning Map shall not come into effect until a Final Plat is approved and recorded for the property. The Wise Farms PUD Zoning Map shall not be recorded until after a Wise Farms Final Plat is recorded. Technical corrections to the Wise Farms PUD Zoning Map shall be made to the Town's satisfaction. The PUD Overlay District is generally used when there is special public interest that doesn't coincide with the traditional zoning in a geographic area. The PUD Overlay District may only be used when an application is not able to meet the requirements of a standard zone classification. The PUD is a mapped area with restrictions in addition to, or less than, those in the underlying traditional zone. Rather than attempt to create a new zoning category, an overlay zone is superimposed over the traditional zone and establishes additional regulations, or reduces or extends the existing uses. The underlying zoning identifies permitted land uses; the overlay zone may provide design restrictions, additional setbacks, or other exceptions to the base district regulations. The Wise Farms PUD Zoning Map (PUD) sets the maximum number of dwelling units at 166. The applicant is committing to dedicate a public pocket park and open space to meet the Town requirements. The applicant will pay a fee in lieu for their required neighborhood park dedication of 1.39 acres and for their community park dedication of 2.32 acres. The PUD Map identifies 8 overlay planning areas; 6 residential planning areas, and 2 agricultural/ open space areas. Although the PUD overlays the entire Wise Farms property, only two Planning Areas (PA-3 and PA-4), where the proposed single family development will occur, are proposed to modify the lot requirements. The two existing farms/single family homes in PA-1 and PA-2 will meet the RR-Rural Residential zone district requirements.

**c. Resolution 15-66 A Resolution Making Certain Findings Of Fact And Conclusions Favorable To The Wise Farms Preliminary Plat; Imposing Conditions Of Approval; Approving The Wise Farms Preliminary Plat With Conditions; And Setting Forth Details In Relation Thereto**

The Wise Farms Preliminary Plat application proposes to plat approximately 174 acres into 166 single-family lots, and 25 tracts for pocket park, open space, landscaping, drainage, utility, oil/gas facilities and ditch purposes. Staff finds the application consistent with the Preliminary Plat approval criteria in Municipal Code, Section 10.7.7.C.10, and recommends approval of the Wise Farms Preliminary Plat application. Staff has provided Resolution 15-66, for the Board of Trustees consideration, recommending approval of the application with the following conditions: Executed Surface Use Agreements, with the mineral owners or leaseholders, shall be in place before a Wise Farms Final Plat, for the areas affected, is approved by the Town. Realignment of the existing Noble Energy pipeline and vacation of portions of the existing easement will need to be completed before the Town approves a Wise Farms Final Plat in the areas where proposed single family lots are encumbered by the existing facility. Within the applicant's Environmental Site Assessment Report (Phase I), the existing Noble Energy oil and gas well and associated tank battery was recognized as an environmental condition. The well site was identified due to the age of the well and the concrete

## LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)

### WISE FARMS PUBLIC HEARING

tank used to store the condensate. The applicant is required to submit a Phase II Environmental Assessment Report of this well site with the Final Plat application of this area of Wise Farms. The abandoned oil and gas well, within a Wise Farms Final Plat for development, shall be located, monumented and identified on the final plat, as specified in the Municipal Code. The Northern Colorado Water Conservancy District access and utility easement from Jasper Road to the Lower Boulder Ditch shall be vacated before a final plat for a development is recorded in this area. If the applicant does not obtain permission for the proposed street crossing of the RTD railroad right of way, the applicant shall provide a second pocket park in the location of Block 2, Lot 1 which is 0.96 acres in size. At Final Plat, the applicant shall provide adequate information regarding the hydraulics and proposed construction of the site to ensure the continued health of the wetland area in the proposed dedication of Town open space. If site development and disturbance of trees occurs between April 1 and August 15, a survey for active nests should be conducted. Trees with an active nest shall not be removed until the nest is abandoned for the season. Within the proposed development, the historic mill structures, along Jasper Road and south of the Wise Museum, are located in existing Jasper Road right of way, in future Jasper Road right of way dedication, and adjacent to future open space dedication to the Town of Erie. The owner and developer have agreed to either move or remove the structures from the right of way and open space. The timing for moving or removing the structures shall be defined in the development agreement for the Wise Farms Final Plat. Within the proposed development, the existing farm on the west end of the property adjacent to the future Jasper Road right of way has an accessory building that encroaches into the future Jasper Road right of way. The owners have agreed to have the structure either moved or removed from the future right of way. The timing for moving or removing the structure shall be defined in the development agreement for the Wise Farms Final Plat. Within the proposed development, the existing house, on the east end of the property, adjacent to Jasper Road, will encroach into the future Jasper Road right of way dedication. The Town has agreed to enter into a license agreement for that portion of the dwelling unit that encroaches into the future right of way at the time of Final Plat. The approval of the Wise Farms Preliminary Plat shall not come into effect until the Wise Farms Zoning Map and Wise Farms PUD Zoning Map is approved and recorded for the property. Technical corrections to Wise Preliminary Plat shall be made to the Town's satisfaction. Staff is requesting that the Board of Trustees continue the decision on the Wise Farms Preliminary Plat application until the June 9<sup>th</sup> meeting. This will allow the Board of Trustees to vote on all three Wise Farms applications (Rezoning, PUD-Planned Unit Development, and Preliminary Plat) concurrently. The Planning Commission held a public hearing for the Wise Farms Preliminary Plat application on January 21, 2015. The Planning Commission is recommending denial of the Preliminary Plat application to the Board of Trustees, in Resolution P15-09. The Planning Commission determined that the application is not in substantial compliance with the following approval criteria as specified in Title 10, Section 7.7 C.10 of the Town of Erie Municipal Code: The subdivision is not generally consistent with the Town's Comprehensive Master Plan. The subdivision is not generally consistent with and does not implement the intent of the specific zoning district in which it is located. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision are not designed to meet the Town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this UDC. The subdivision does not comply with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter or this UDC. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible. The subdivision will result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated. The subdivision will not be integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features. The subdivision will result in significant adverse impacts on

**LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)**

**WISE FARMS**  
**PUBLIC HEARING**

adjacent properties, or such impacts will be substantially mitigated. Staff is requesting that the Board of Trustees continue the decision on the Wise Farms Preliminary Plat application until the June 9<sup>th</sup> meeting. This will allow the Board of Trustees to vote on all three Wise Farms applications (Rezoning, PUD-Planned Unit Development, and Preliminary Plat) concurrently.

**Action:** Prior to opening the Public Hearing Mayor Harris stated "Anyone wishing to address the Board of Trustees on this matter; please raise your right hand. Do you swear or affirm that the evidence and testimony that your about to give is true?" Mayor Harris opened the Public Hearing for Ordinance 15-2015; Ordinance 16-2015 and Resolution 15-66 at 9:30 p.m.

**Public Comment opposed to Ordinance 15-2015; Ordinance 16-2015 and Resolution 15-66**

Anita Schuneman, 11848 Billings Ave., Lafayette, CO  
Caroine Kauffman, 11793 Billings Ave., Lafayette, CO  
Bob Kauffman, 11793 Billings Ave., Lafayette, CO  
Dick Przywitowski, 11619 Billings Ave., Lafayette, CO.  
Rachel Dickson, 11537 Flatiron Dr., Lafayette, CO  
Karen Schultz, 4049 N. 119<sup>th</sup> Street, Lafayette, CO  
Brian Carlson, 4100 N. 119<sup>th</sup> Street, Lafayette, CO  
Jenni Elke, 4038 N. 119<sup>th</sup> Street, Lafayette, CO  
Dennis Nowak, 11577 Billings Ave., Lafayette, CO  
Kathey TePoel, 12050 Jasper Rd. Lafayette, CO  
Mary Beggs, 12134 Jasper Road, Lafayette, CO  
Time Jones, 12134 Jasper Road, Lafayette, CO  
Karl Volz, 11587 Jasper Road, Lafayette, CO  
Suzanne Engert, 11686 Flatiron Drive, Lafayette, CO  
James Speed, 10926 Dobbins Run, Lafayette, CO  
Clyde Mason, 11280 Flatiron Drive, Lafayette, CO  
Elizabeth DeLaud, 4229 N. 119<sup>th</sup> Street, Lafayette, CO  
Rita Ellis, 12110 Jasper Road, Lafayette, CO  
Jerry Heim, 11711 Billings Ave., Lafayette, CO  
Kit Wagner, 11810 Jasper Road, Lafayette, CO  
Gwen Foster, 4227 N. 119<sup>th</sup> Street, Lafayette, CO

**Public Comment in favor of Ordinance 15-2015; Ordinance 16-2015 and Resolution 15-66**

Liz Wise Kissell, 10230 W. Center Avenue, Lakewood, CO  
Sarah Allene Wise, 11497 Jasper Road, Lafayette, CO  
Jon Kottke, 2975 Valmont Street, Suite 240, Lafayette, CO

**Action:** Mayor Harris called for a break at 11:10 p.m. and reconvened the meeting at 11:17 p.m.

LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)

WISE FARMS  
PUBLIC HEARING

Action: Trustee Charles moved to continue Resolution 15-66 to the June 9, 2015 regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

Action: At the request of the Applicant, Mayor Harris continued the Public Hearing for Ordinance 15-2015; Ordinance 16-2015 and Resolution 15-66 to the June 9, 2015 regular Meeting of the Town of Erie Board of Trustees.

VIII. BOARD OF TRUSTEES REPORTS

Trustee Carroll noted her recent attendance at the International Convention of Shopping Centers.

Trustee Woog asked about setting up a webpage for people to comment and inquire on the Dog Park Project and also if there was an interest in making a part of the Coal Creek Trail an "off leash" area for dogs.

Trustee Moore thanked the members of the Board that had attended the ICSC event.

IX. ADJOURNMENT

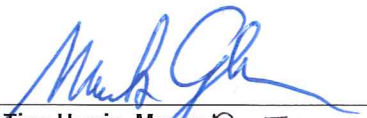
Action: Trustee Schutt moved to adjourn the May 26, 2015 Regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Trustee Woog. The motion carried with all present voting in favor thereof.

Action: Mayor Harris adjourned the May 26, 2015 Regular Meeting of the Town of Erie Board of Trustees at 11:20 p.m.

Respectfully Submitted,



Nancy J. Parker, CMC, Town Clerk



Tina Harris, Mayor Pro Tem



